



**COMSAT
Video Enterprises**

Communications
Satellite Corporation
22300 Cornsat Drive
Clarksburg, MD 20871
Telephone 301-428-7373
Fax 301-353-0274

**Testimony of Robert J. Wussler
President and Chief Executive Officer
COMSAT Video Enterprises, Inc.**

1. Qualifications

Since September 1989 I have been President and Chief Executive Officer of COMSAT Video Enterprises, Inc. (CVE), a wholly-owned subsidiary of the Communications Satellite Corporation (COMSAT). CVE is the largest provider of satellite-delivered entertainment services to the U.S. lodging industry, and is engaged in sports and entertainment program acquisition, broadcast services, High Definition Television and Direct Broadcast Satellite development.

Prior to joining CVE, I served as Executive Vice President of Turner Broadcasting System, Inc. (Turner Broadcasting) from 1980 to 1987 and Senior Executive Vice President from 1987 to 1989. I also was a member of the Turner Broadcasting Board of Directors and executive committee, and held the position of President of Superstation WTBS.

Turner Broadcasting is a diversified entertainment company which owns and operates four programming services delivered to cable systems, home satellite dish owners and SMATV systems via satellite: (1) the Superstation WTBS, which is and has been for several years the most widely-carried distant signal; (2) the Cable News Network (CNN); (3) Headline News; and (4) Turner Network Television (TNT). Turner Broadcasting also is engaged in the business of syndicating feature films and television programming. Included within its library are more than 3,700 feature-length motion pictures (obtained as a result of Turner Broadcasting's acquisition of MGM/UA Entertainment Company in 1986), as well as a number of cartoon episodes, short subjects, television series and made-for-television movies. In addition, Turner Broadcasting owns the Atlanta Braves major league baseball club, and holds a limited partnership interest in the Atlanta Hawks professional basketball team.

During my tenure with Turner Broadcasting, I was involved in virtually every aspect of WTBS' daily operation, including the development and acquisition of programming for WTBS and the marketing of the superstation to cable operators. My responsibilities also required me to be generally familiar with the operations of other program services with which WTBS competed (such as other cable networks and superstations), as well as the cable television, broadcast, sports and syndication industries.

I spent 21 years with CBS, starting in the mail room and eventually becoming President of CBS Television Network and CBS Sports. I also have been active in several industry organizations. For example, I have served as Chairman of the Board of the National Academy of Television Arts and Sciences; Secretary to the Board of Governors of the National Cable Television Association (NCTA); Chairman of the NCTA National Satellite Network Committee; and Chairman of the NCTA Programming Conference. In addition, I have been a member of the Board of Governors of the National Academy of Cable Programming; the Board of Advisors of the Cable Television Public Affairs Association; and the Executive Committee of the Cable Television Advertising Bureau.

I received the NCTA President's Award in 1983 and Associate's Award in 1986. I also have received five Emmy Awards, four Awards for Cable Excellence and two international sports awards.

2. Opinion Concerning Distant Signal Program Values

The Joint Sports Claimants (Major League Baseball, National Basketball Association, National Hockey League and National Collegiate Athletic Association) have asked that I offer the Tribunal my opinion concerning the relative value of the non-network sports and syndicated programming on WTBS and other distant signals carried by cable in 1989.

I am aware that in the cable royalty distribution proceedings for 1978 through 1983, the copyright owners of syndicated movies, series and shows received from the Tribunal approximately 70 percent of the cable royalty funds. I also am aware that the copyright owners of live professional and college sports programming received less than one-quarter of the syndicators' award, or approximately 15-17 percent. I am advised that these awards were tied largely to the amount of distant cable "viewing" generated by each program category (that is, the number of hours that each program aired multiplied by the average number of cable households watching that program).

It is my opinion that the Tribunal's awards in the 1978-83 proceedings do not reflect the relative values that the cable industry placed upon distant signal non-network sports programming, movies, series and shows during those years. In my opinion, the Tribunal's past awards undercompensated the owners of live sports programs and overcompensated the suppliers of syndicated programs, based upon the comparative worth of these programs to the cable industry. I believe that, for the year 1989, the sports interest are entitled to a share of cable royalties which more closely approximates the share allocated to syndicators -- again, based on the comparative worth of these programs to the cable industry.

3. Discussion

There are several factors which help explain the importance that the cable industry has attached to live sports programming -- its uniqueness and originality; the fact that it is truly first-run; its relatively limited availability; its topical nature; its promotability; the loyalty of its followers. Because of these

factors, live sports programs are critically important to the cable industry's principal objective -- convincing consumers to subscribe to, and to continue paying \$15 to \$30 per month for, cable service. They are more important than syndicated movies and programs which typically do not appear on distant signals until after having had multiple runs in other media.

It is, of course, difficult to quantify these factors and to accord relative dollar values to the different types of non-network programs on distant signals. However, based on my experience in programming WTBS and marketing the superstation to cable operators, I believe that sports programming has a relative value significantly greater than that reflected in "viewing" data or past Tribunal awards.

The marketplace value of a program package can be seen in the amounts paid to acquire that programming from independent sources. The level of licensing fees may be quite different than the amount of "viewing" which the program generates.

For example, in December 1989 Turner Broadcasting agreed to pay Columbia Pictures Television approximately \$10 million for the rights to televise 1,000 feature films during the years 1990-98 on WTBS and TNT. This was the largest movie package ever licensed from a single Hollywood studio in the history of basic cable. The package, which included many popular titles such as "Kramer vs. Kramer," "The Big Chill," "Tootsie," and "To Sir With Love," will give Turner some 14,000 thousand hours of programming over a nine-year period (assuming 7 runs per title).

At approximately the same time that it closed the Columbia deal, Turner Broadcasting agreed to pay the NBA a total of \$275 million for the rights to televise up to 320 NBA games (about 800 hours) during 1990-94 on TNT. In other words, the amounts that Turner Broadcasting pays to televise the NBA games will be nearly 30 times greater than the amounts paid to televise the Columbia movie package -- even though that movie package will likely generate much greater "viewing" over the run of the contract.

It might be noted that much of the programming on WTBS in 1989 consisted of older off-network shows such as the "Beverly Hillbillies," "Gilligan's Island," "Brady Bunch," "Andy Griffith," "Leave It To Beaver," "Perry Mason," "Sanford & Son" and "Bewitched." Programs such as these, although they were popular and likely generated significant "viewing," were relatively inexpensive to obtain.

Consider also the amounts that WTBS received from the sale of advertising on sports programming. Major sports programming (Braves baseball, NBA basketball and SEC football) generated a significant portion of WTBS' total ad revenues in 1989, even though it accounted for a relatively small amount of broadcast time. Even those revenues did not reflect the full value of sports programming to WTBS.

For example, it does not take into account the significant promotional value of the sports programming. In 1989, a significant amount of WTBS'

advertising expenditures and promotion opportunities (including those on its sister networks of TNT, CNN and Headline News) related to Braves baseball, NBA basketball and SEC college football.

The reason for the emphasis on sports is easy to understand. A principal goal of WTBS is to gain access to as many cable systems as possible. We were, of course, quite successful in doing this; by 1989, WTBS reached some 93 percent of the nation's cable households. The sports programming on WTBS was and remains a key ingredient in convincing cable operators to carry the superstation. Indeed, Ted Turner recognized early on that sports programming would be key to the success of WTBS as a superstation, and thus he purchased the Braves shortly after acquiring WTBS in 1970. (Other superstation interests have recognized the same, e.g., Tribune (WGN/Cubs) and Gaylord (KTVT/Rangers)). Turner's ownership of the Braves assures WTBS of an important block of programming. It also ensures that this programming is available at a cost considerably less than outside licensing.

Certificate of Service

I hereby certify that on Monday, February 12, 2018 I provided a true and correct copy of the Robert Wussler Written Direct Testimony (JSC Written Direct Statement Vol. II) to the following:

National Public Radio, Inc. (NPR), represented by Gregory A Lewis served via Electronic Service at glewis@npr.org

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis served via Electronic Service at smosenkis@ascap.com

National Association of Broadcasters (NAB), represented by David J Ervin served via Electronic Service at dervin@crowell.com

Public Broadcasting Service (PBS), represented by Lindsey L. Tonsager served via Electronic Service at ltonsager@cov.com

MPAA-represented Program Suppliers, represented by Lucy H Plovnick served via Electronic Service at lh@msk.com

Devotional Claimants, represented by Jessica T Nyman served via Electronic Service at jessica.nyman@pillsburylaw.com

Spanish Language Producers, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Multigroup Claimants, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

SESAC, Inc., represented by John C. Beiter served via Electronic Service at jbeiter@lsglegal.com

Canadian Claimants Group, represented by Victor J Cosentino served via Electronic Service at victor.cosentino@larsongaston.com

Broadcast Music, Inc. (BMI), represented by Brian A Coleman served via Electronic Service at Brian.Coleman@dbr.com

Signed: /s/ Michael E Kientzle